

### **REMARKS**

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

#### **Rejection of Claims 1, 3, 4, 6 and 18 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 1, 3, 4, 6 and 18 under 35 U.S.C. §103(a) as being unpatentable over Cobbley et al. (U.S. Patent No. 5,818,510) ("Cobbley et al.") in view of Hooks et al. (U.S. Patent No. 6,169,542) ("Hooks et al.") and further in view of Dimitrova (U.S. Patent No. 6,363,380) ("Dimitrova"). Applicants respectfully traverse this rejection and submit that one of skill in the art would not have sufficient motivation or suggestion to combine these references. Further, even under a KSR analysis, if combined, the references fail to teach each limitation of the claims.

Applicants note that there are several limitations in which the analysis is repeated from previous Office Actions and Applicants' arguments have been unanswered. Applicants specifically note that much of the analysis in our November 9, 2007 response after Final Rejection applies to the present status of the case but has not been adequately answered or addressed. Applicants note that in our response to the Final Office Action and the Advisory Action we addressed the issue of the combination of Cobbley et al. and Peckover which arguments have appeared to be accepted. However, previous arguments already made with regards to whether Cobbley et al. teach each limitation of the claims have been presented fully by Applicants and yet do not appear to have been considered by the Examiner. For example, the Office Action currently rejects claim 1 and asserts that Cobbley et al. teach a module configured to classify a media collection as program content versus television commercials. Applicants previously argued that there was no discussion or reference to "secondary or associated data" and Applicants do note that on pages 2 and 3 of the Office Action that such language has been

removed. Applicants note, however, that the language has been reintroduced on page 4, line 2 in which the Office Action asserts that Cobbley et al. teach indexing based on subject matter and further teaches indexing "secondary data or commercials" but is silent as to whether commercials are presented chronologically separate from the program content. Applicants note that using the terms "indexing secondary data or commercials" introduces language not within Applicants claims but allows the Examiner to interpret the term "commercials" to be beyond its appropriate scope so as to include real-time stock information, weather report information and so forth. This is subject matter all falling within the "program content" and not commercials. Applicants have already previously argued this issue and have paid for an RCE and yet the Examiner, nevertheless, has still introduced additional language in order to maintain this position. Applicants, of course, traverse this approach and would request that only our claim language be used in order to appropriately analyze the scope of our claim coverage in the analysis.

Next, Applicants note that an additional citation in Cobbley et al. is to Figure 2, window 210. Applicants note that while, as has previously been explained, the specification fails to include any reference to "commercials" that window 210 under local news does reference a "commercial-new computer system." Applicants respectfully submit that this does not substantively change their argument and in fact, as shall be seen, actually renders some of the analysis in the Office Action incorrect.

First, we note that our position and previous argument in our November 9, 2007 response was that there is simply no classifying that is mentioned to classify a media selection as program content versus television commercials. Applicants note that window 210 shows various story summaries in sports, local news, national news and weather. One of the items under local news is a commercial for a new computer system. The discussion of index display 210 is found in

column 11 in which story segment titles 214 are identified and check marks 216 are identified with segments in which the individual selections are identified for the user to view. The commercial for a new computer system is not mentioned in the text. Applicants submit that their position remains strong. Namely, no classifying is mentioned of the media collection based on program content versus television commercials. What is simply taught is that under local news, there are various stories as well as a commercial for a new computer system. It is even questionable whether this would be interpreted as an actual television commercial or whether it would fall under a category of one of the local news stories about a commercial-new computer system. This may be a local story about a computer system that was designed by somebody local for commercial use rather than personal use. For example, one of the stories right above the "commercial" cites a city's auto plant and how it considers expansion. Thus, Applicants note that a possible and even more probable interpretation of this entry in window 210 is that one of the local news features is for a commercial-new computer system. In any event, Applicants note that under either interpretation, Applicants position remains strong. Namely, Cobbley et al. fail to teach anything regarding classifying the media collection as program content versus television commercials. This is easily identifiable because in window 210 there is no separating the commercial-new computer system row from all the remaining entries which each would comprise program content. Again, Applicants respectfully request a substantive response in this regard or a Notice of Allowance rather than a copying and pasting of previous text.

Next, the Office Action asserts that identifying program segments within classified program content based on synchronizing recognized speech in each identified segment with captioning to extract stories is taught by Cobbley et al. Applicants note that again, while Applicants have paid for an RCE for a fresh review of the matter, that this section is simply copied from a previous Office Action including the reference in the last phrase to "indexing"

which has nothing to do with this particular step. Applicants have previously in the November 9<sup>th</sup> response argued that there is no teaching of any synchronization based on recognized speech from a speaker with captioning to extract stories. On pages 3-5 of the November 9<sup>th</sup> Office Action, Applicants set forth in detail arguments why each portion of the reference fail to teach identifying segments within the classified program content based on synchronizing recognized speech in each identified segment with captioning to extract stories.

Applicants also note again that the concept of indexing appears to be simply a typographical error on page 3 of the Office Action in which it is asserted that "indexing further includes subject matter, particular characters interacting with the video and audio, hosted talk shows, show topics, gusts [sic], etc.,." This is a nonsensical phrase inasmuch as the identifying step does not include any indexing and therefore, Applicants highlight this feature in which a previous Office Action, dated August 9<sup>th</sup>, 2007, also included this error. For further analysis, please see our November 9, 2007 response.

Therefore, Applicants submit that several limitations are not taught or suggested in the primary reference and therefore, claim 1 is patentable and in condition for allowance as well as claim 18.

Next, Applicants address the issue of whether one of skill in the art would combine these references. Page 4 of the Office Action, as noted above, the Office Action notes that Cobbley et al. teach indexing based on subject matter and further teaches indexing "secondary data or commercials" (which Applicants have traversed as set forth above) and notes that it is silent as to whether commercials are presented chronologically separate from the program content. The Office Action then notes that Hooks et al. discloses a method of storing and delivering ads, wherein the ads are presented chronologically separate from the program content. Applicants alluded to the concept above wherein Figure 2, window 210 of Cobbley et al. actually turns in

Applicants favor. This is because if this is interpreted as a television commercial, then the analysis on page 4 is incorrect inasmuch as Cobbley et al. are not "silent as to whether commercials are presented chronologically separate from the program content." Here, clearly the commercial is presented as part of the local news and thus is presented chronologically with the local news. Therefore, they would actually teach away from the limitation in claim 1 which requires the television commercials to be presented chronologically separate from the program content. The analysis of the Office Action in this case is therefore not persuasive. This is because where Hooks et al. may disclose a method of storing and delivering ads wherein the ads are presented chronologically separate from the program content, Applicants would submit that blending these references then would require a modification of the teachings of window 210 with regard to the index of the story summaries. Where such a modification requires a change in the principle operation of the prior art reference being modified, then it is taught in the MPEP that such leads away from there being sufficient motivation or suggestion to combine the references.

Furthermore, page 4 of the Office Action concludes that it would be obvious of one of ordinary skill in the art to incorporate the teachings of Hooks et al. into the system of Cobbley et al. to index, search and present ads in an orderly manner to provide more efficient delivery ads in accordance with preferences of the users. Applicants traverse this as the fundamental reason why one of skill in the art would combine these references because Cobbley et al. already teach such a feature. As has been noted above, feature 210 includes as part of the local news a commercial for a new computer system. Column 11, discussing this window, teaches that there are check marks 216 which illustrate a segment in which an individual selects to view. Thus, the commercial also has a check mark by it which is an indication that the user has reviewed the index shown in window 210 and selected those segments ("according to preferences") so that they can view the ads. In other words, Applicants submit that the very benefit that is identified

as to why one of ordinary skill in the art would combine these references is already taught in Cobbley et al. inasmuch as the user can already have ads presented in an orderly manner to provide more effective delivery of ads in accordance with the preferences of the user. Applicants also further note that the various story summaries can be dragged and dropped into window 205 according to Cobbley et al. and thus organized and viewed in any order as is desired. Thus, certainly, the user can search and present ads in an orderly manner according to the teachings of Cobbley et al. Therefore, it becomes unnecessary to combine the teachings from Hooks et al. into the teachings of Cobbley et al. Therefore, Applicants respectfully submit that there are multiple reasons why the present claim set is patentable and in condition for allowance. Therefore, Applicants submit that claims 1, 3, 4, 6 and 18 are patentable and a notice to that effect is earnestly solicited.

**Rejection of Claims 5 and 7 Under 35 U.S.C. §103(a)**

The Office Action rejects claims 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over Cobbley et al. in view of Hooks et al. and further in view of Dimitrova and further in view of Hoffert et al. (U.S. Patent No. 5,983,176) ("Hoffert et al."). Applicants respectfully submit that claims 5 and 7 each depend from a patentable parent claim and therefore, Applicants submit that claims 5 and 7 are, for at least the reasons set forth above, patentable and in condition for allowance.

Applicants do not acquiesce that one of skill in the art would have sufficient motivation or suggestion to combine Dimitrova and/or Hoffert et al. with any of the other remaining references.

**CONCLUSION**

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted,

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